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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Criminal Action No. 15-CR-239-F
v.	)	
	)	
RANDY MILLER,	)	
	)	
Defendant.	)	

MOTION TO CONTINUE TRIAL

COMES NOW Randy Miller by and through his attorney, Ericka S. Smith, and hereby moves the Court to continue his Trial currently set for February 7, 2017 at 8:30 a.m. for the following reasons:

On January 20, 2017 Defendant submitted a request for a continuance due to family issues of an upcoming birth of Defendant's child. The Court denied the motion since Defendant failed to show the ends of justice would be met by the continuance. The Government did not object to the continuance.

Defendant in hindsight acknowledges a failure to submit a motion which could be persuasive to the Court. Due to a family suicide Counsel for the Defendant filed the motion without thoughtful process.

Defendant now renews his motion to continue the trial for the reasons noted below. A cesarean section is going to be performed the end of January or the beginning of February in order to deliver Defendant's child. The doctors estimate a recovery from the c-section to be approximately 2 weeks. Should the Defendant be convicted at trial he would have the inability to help with wife in her recovery and to aid in the care of the child. Due to complications in the pregnancy the mother is unable to provide care to their 5 other children and this duty has fallen upon Defendant. It is anticipated that due to all of these factors, Counsel is going to have very limited access to the Defendant in order to prepare for trial.

In addition, in meeting with Defendant, Counsel has learned of evidence that has not been previously acquired by prior counsel, current counsel or the Government. This evidence is material to the defense of the case. Counsel has taken steps with the Government to obtain this evidence, but additional subpoenas may be required. One of the subpoenas involves medical records and a hearing will likely be required to procure those records.

Due to the above concerns, Counsel asks for a delay of thirty or more days. Under the Speedy Trial Act, U.S.C.18 § 3161(7)(A) this period of time can be excluded from the speedy trial calculation if the Court finds that "the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial."

Counsel for the Government, Eric J. Heimann, does not object to this second motion for continuance.

WHEREFORE Defendant Randy Miller respectfully requests his trial setting of February 7, 2017 at 8:30 a.m. be continued to a future date convenient to the Court.

DATED this 18th day of January, 2017.

/s/ Ericka S. Smith
Ericka S. Smith, #6-3444
Attorney at Law

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of January, 2017, a copy of the foregoing was served via the CM/ECF system to all parties.

/s/ Ericka S. Smith